

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

RED BARN MOTORS, INC., PLATINUM )  
MOTORS, INC., and MATTINGLY AUTO )  
SALES, INC., individually and on behalf of )  
other members of the general public similarly )  
situated, )  
Plaintiffs, )  
v. ) Case No. 1:14-cv-01589-TWP-DKL  
COX AUTOMOTIVE, INC., NEXTGEAR )  
CAPITAL, INC. F/K/A DEALER SERVICES )  
CORPORATION, successor by merger with )  
Manheim Automotive Financial Services, Inc., )  
and JOHN WICK, )  
Defendants. )

**DECLARATION OF MIKE MCKINNEY**

1. I am over twenty-one years of age, of sound mind, and competent to make this declaration.

2. I am currently the National Division Vice President for Defendant Cox Automotive, Inc. f/k/a Manheim, Inc. ("Cox Auto"), and was previously the Regional Vice President of Operations at Cox Auto since 2007. I am familiar with our subsidiaries and recent corporate acquisitions, as well as auction vehicle funding practices. This Declaration is based on my own personal knowledge, in reliance on the regular practices and procedures of Cox Auto, and on the records maintained by Cox Auto.

3. Cox Auto had no ownership interest in Dealer Services Corporation (n/k/a NextGear Capital, Inc.) until March 2012. In fact, until then, Dealer Services Corporation was a direct competitor to Cox Auto's own subsidiary floor planner, Manheim Automotive Financial Services.

4. Cox Auto has no ownership in or control over Auction Insurance Agency or its uninsurable list, which is sometimes known as the "KO Book." Various subsidiaries of Cox Auto may share customer default or non-payment information with Auction Insurance Agency for the mutual benefit of each, but those subsidiaries have no control over whether a dealer customer or borrower is included by Auction Insurance Agency in its KO Book. Likewise, Cox Auto and each of its subsidiaries retains the right and option to deal with any dealer listed in the KO Book at its own discretion.

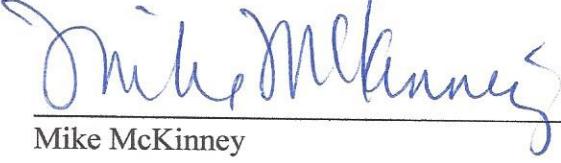
5. Cox Auto currently has an indirect ownership interest in both NextGear Capital, Inc. ("NextGear") and the Manheim auto auctions. Pursuant to the Master Facility Agreement between Dealer Services Corporation and Manheim, if a dealer had floor plan credit availability and directed a purchased vehicle onto its floor plan, Dealer Services Corporation was committed to pay Manheim for that vehicle as of the date of sale and without further condition. Dealer Services Corporation and Manheim settled up, for that and other current transactions, the night of sale or as soon as possible thereafter. NextGear has continued to operate consistently with that understanding and process.

6. Cox Auto has indirect ownership and oversight of NextGear, but it has never directed NextGear's day-to-day interest and fee structure, Note terms, or default reporting to Auction Insurance Agency, either before or after the acquisition in 2012.

7. Cox Auto has never operated, managed, participated in, or conducted a RICO enterprise related in any way to the KO Book, the plaintiffs, or NextGear's interest practices. Cox Auto has also never committed any act of racketeering as defined in 28 U.S.C. § 1961(1) related in any way to the KO Book, the plaintiffs, or NextGear's interest practices.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and accurate to the best of my knowledge.

This 25 day of April, 2017.

  
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Mike McKinney